

REMARKS

After entry of the foregoing amendment, claims 1-17 are pending in the application. Dependent claim 17 is newly added

The allowance of claims 10-16 is acknowledged, with appreciation.

Claims 1, 2, 7, 8 and 9 are rejected on non-statutory obviousness-type double patenting grounds, over patent 6,631,015. A Terminal Disclaimer is submitted to moot such rejection.

A period has been added to the end of claim 2.

Claims 3-6 are rejected under § 112, due to the “deliberately induced” language. Although not literally used in the specification, this limitation is properly supported in the specification, e.g., by piezo-electric transducer 15. That transducer induces the relative movement. Such movement is deliberate, i.e., not unintended. (An *unintended* relative movement might be induced, e.g., when a human holds an optical sensing device, and unintentionally jitters its position.)

Literal use of the claim language in the specification is not required. See, e.g., MPEP § 2106, which notes, “*The claimed invention subject matter need not be described literally, i.e., using the same terms, in order for the disclosure to satisfy the description requirement.*” See also MPEP § 2163 (“*the description need not be in ipsi verbis.*”)

Although the original claim language complies with § 112, applicant has amended claims 3 and 5 to recite that the relative movement is due to operation of an electro-mechanical transducer. Support for such limitation is found, e.g., at Figs. 2A, 2B and paragraphs [0009] and [0021] of applicant's published specification (a piezo-electric transducer is an electro-mechanical transducer).

Favorable reconsideration is solicited.

Date: August 18, 2008

CUSTOMER NUMBER 23735

Respectfully submitted,

DIGIMARC CORPORATION

Phone: 503-469-4800
FAX 503-469-4777

By /William Y. Conwell/
William Y. Conwell
Registration No. 31,943